

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WILSON DIVISION

IN RE:  
HEAD GRADING CO., INC.

CASE NO.:  
05-02729-8-JRL

STEPHEN L. BEAMAN, TRUSTEE  
Plaintiff

VS.

RUBY LEE HEAD  
Defendant

)  
)  
) Adversary Proceeding  
) No.:

## COMPLAINT

NOW COMES Stephen L. Beaman, Plaintiff herein, through undersigned counsel, complaining of the Defendant and asks that the Court avoid the lien of Defendant herein and hereby shows unto the Court.

1. This a core proceeding pursuant to 28 USC § 157 (b) (2), and the Court has jurisdiction over this adversary proceeding pursuant to 28 USC §§ 151, 157, and 1334. The Court has the authority to hear this matter pursuant to the general order of reference entered by the United States District Court for the Eastern District of North Carolina.

2. The Debtor, Head Grading Co., Inc. filed a voluntary petition for relief under Chapter 7 on April 5, 2005, and the Plaintiff herein, Stephen L. Beaman, was appointed to administer the estate as Trustee, pursuant to 11 USC § 704.

3. Among those assets scheduled by the Debtors was a certain parcel of real property containing approximately 33 acres located at Watery Branch Road, in Wayne County, North Carolina.

4. The Defendant is the named Beneficiary of a North Carolina Deed of Trust dated July 28, 1998, which references a “Promissory Note of even date herewith”. A copy of said Deed of Trust is attached hereto as Exhibit “A”. Said Deed of Trust is in the original amount of \$180,515.75.

5. There is no Note of even date. There is a Note dated July 29, 1998, signed by Ed Head as President for Head Grading Company, Inc. Said Note is attached hereto as Exhibit "B".

6. Pursuant to 11 U.S.C. §544 the lien of Ruby Lee Head under said deed of trust is unenforceable against the Trustee, as a hypothetical lien creditor who obtains a perfected lien against the property on the date the petition was filed, and should be avoided on the grounds that said lien was not properly perfected prior to the bankruptcy petition filing.

7. The avoided lien should be preserved for the benefit of the estate pursuant to 11 U.S.C. § 550.

WHEREFORE, Plaintiff respectfully prays the Court as follows:

1. For an order avoiding the lien of Ruby Lee Head on the real property listed herein and preserving said lien for the benefit of the estate; and
2. For such other and further relief as the Court deems just and proper.

This the 28th day of December, 2005.

Law Office of Stephen L. Beaman, P.A.

S/Stephen L. Beaman

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